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## **Brexit: European Scrutiny Committee response and consultation**

**September 2016**

**Written evidence submitted by**

**Dr Laurence Ferry, Durham University<sup>i</sup>**

I welcome the request to submit written evidence to the European Scrutiny Committee response and consultation regarding Brexit. My response is specifically concerned with the policy area of local government. This reply draws on my recent published academic work on governing and budgeting in public services and senior level personal experience in both central and local government.

Local authorities had significant challenges prior to Brexit but undoubtedly now following the referendum there is a need for increased scrutiny, if not a fundamental review, of local government. This is because local government will face a big policy, financial and service impact, along with significant political implications, from Brexit. Scrutiny may be partly undertaken by the European Scrutiny Committee, but mostly shared with other committees that will have a more specific interest in such issues. It is therefore important that the linkages between committees for the flow of information are in place. In my opinion a fundamental review of local government will be necessary, and this could be along the lines of something approaching the Layfield Committee in the 1970s with local government having a seat at the decision making table to voice concerns around power, capacity and local freedoms (Ferry, 2016a).

Increased scrutiny of local government following Brexit is necessary for several reasons. Firstly, and very importantly, the current implementation of EU directives happens to a large extent through local government. Indeed 70% of legislation affecting local government has antecedents in Brussels (Travers, 2016). The process of going through existing directives to decide what to keep, amend or jettison should be subject to scrutiny. Brussels have been more open than Whitehall for local government to influence such legislation, and so following Brexit the relationship between UK central and local government may have to become more collaborative if legislation is to be accepted at the local level.

Secondly, already following the Brexit referendum, the Prime Minister Theresa May has said that reducing the budget deficit and balancing the books by 2020 will have to be delayed until the longer term. The Chancellor Phillip Hammond has also highlighted the need to reset economic and fiscal policy, which suggests the government may move away from austerity. It is therefore essential that the implications of Brexit are taken account of in the main interconnected activities for central government governing and budgeting practices, which involve the spending review, budget, accountability and transparency, and risk management arrangements (Ferry and Eckersley, 2011, 2012, 2015a). Continuous austerity policies set out in the spending review and actual cuts to budgets means the capacity of local government is already severely limited, constraining its 'real' ability to use 'supposed' powers from the localism act 2011 for making their own decisions (Ahrens and Ferry, 2015). This raises pertinent questions on how to tackle region-specific social and environmental problems, and lead sustainable economic development. The localisation of business rates and removal of equalisation measures, plus spending power and cash differences in resource allocation, has meant a transfer of funding towards more wealthy areas. The capacity to exercise freedom may therefore not be equal across local authority areas. Brexit further antagonises these problems. For example, given budget constraints by central government, many local governments have historically been able to pursue an expansionary economic development through structural funds and other EU funding. If the UK leaves the EU there is a significant funding loss to local authorities that may not be replaced by central government for the sort of activities local authorities currently use it for.

Thirdly, any loss of EU funding to local government from Brexit only further exacerbates existing serious concerns around financial and service sustainability. The statutory requirement to set a balanced budget has undoubtedly led local authorities to prioritise controlling expenditure, and focus on the resilience of reserves. Nevertheless, a more creeping risk has begun to materialise in the form of systemic service failures resulting from a lack of funding and requiring some form of central government intervention. It is therefore evident that local authorities need greater freedom to generate revenue in order to facilitate innovation and develop more sustainable business practices and service models (Ferry, Coombs and Eckersley, 2017). Indeed, this becomes more apparent when it is contextualised that local authorities in the UK have the lowest level of local raised funding of advanced Western European countries (Ferry, Eckersley and van Dooren, 2015).

Fourthly, the UK central government has made significant changes to accountability and audit arrangements for local public bodies in recent years and it is debateable how robust these forms of assurance are (Ferry and Murphy, 2015), which will only be further tested through the fallout from Brexit. For example, with regards to local government in England, the dismantling of institutions such as the Audit Commission and the scrapping of performance management frameworks and processes that monitored outputs and outcomes for spending (such as public service agreements and Comprehensive Area Assessments) meant that top-down accountability became focused overwhelmingly on financial *conformance* rather than organisational *performance* (Ferry and Eckersley, 2015a). Supplementary reforms that were intended to make up for the reduction in accountability arrangements, such as the requirement to increase the transparency of public administration through on-line publication of all transactions over £500 by local authorities, and thereby enable greater bottom-up accountability with citizens acting as ‘armchair auditors’, have resulted in a performance assessment system that is neither as rigorous nor as standardized as its predecessor. The overall result is a weakening of local accountability arrangements (Eckersley, Ferry and Zakaria, 2014; Ferry and Eckersley, 2015a, 2015b; Ferry, Eckersley and Zakaria, 2015; Ferry, 2016b). Given this context, it is arguable whether adequate accountability and transparency arrangements are in place for an assessment of Brexit’s impact at the local government level and for benchmarking local authorities as the changes take effect.

Fifthly, local government services have already become more privatised and outsourced during austerity in an attempt to address capacity issues which has raised accountability concerns (Eckersley, Ferry and Zakaria, 2014; Ferry, 2015; Ferry, 2016b), and this will undoubtedly be impacted by Brexit. From 2010 to 2015, the Conservative-led coalition government under their policy of austerity localism specifically introduced measures to support outsourcing. Outsourced public services almost doubled from £64bn to £120bn in 5 years, with the UK outsourcing market being the second largest after the USA. Although an increase in outsourcing seems inevitable, there is no conclusive evidence suggesting this trend is beneficial and issues of commercial confidentiality and changes to organisational structures can make it more difficult to assess the value of these services. Again Brexit has significant implications that need to be scrutinised. In particular, with regards to EU procurement and state aid rules it is unclear if these will be relaxed or have to be retained for access to the single market.

Sixthly, Brexit means there is likely to be a hollowing out at the local government level of rules protecting the environment and social conditions, and more emphasis on the economic imperative. For example there are likely to be changes to treatment and management of waste such as the landfill directive and to working time directives, combined with local authorities under pressure to become economically more sustainable themselves through various forms of commercialisation and corporatisation involving special purpose vehicles.

Finally, Brexit may mean that migration constraints hinder recruiting EU workers for areas like social care, but at the same time it may relieve some pressure on housing, school places and the NHS. However, this would of course depend on what happens around freedom of movement as a condition for access to the free market, which makes it difficult to plan for.

Given the above points it would make sense following the Brexit referendum result for local government to remain a priority for scrutiny across relevant select committees. Brexit also exacerbates what was already the need for a more fundamental review of local government. The only thing that may hold up such a review is available capacity within Whitehall, especially given the resources that Brexit itself will take up.

25<sup>th</sup> July 2016

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